



**City Of San Diego  
COUNCILMEMBER JIM MADAFFER  
DISTRICT SEVEN**

**M E M O R A N D U M**

**M-07-10-02**      **Please refer to this number when responding to this memo**

**DATE:**              **October 9, 2007**

**TO:**                 **Honorable Mayor Jerry Sanders**

**FROM:**             **Councilmember Jim Madaffer** *Jim Madaffer*

**SUBJECT:**         **Ethics Commission Jurisdiction over Classified Employees to  
the 2008 Meet & Confer Process**

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I recently sent a request to the City's Ethics Commission requesting they explore the idea that the Commission expand its jurisdiction to include classified employees who are required to file Statements of Economic Interests (Form 700 SEI). My original memo and the response of the Ethics Commission are attached.

During the Commission's research they determined that there are approximately 750 employees within the City of San Diego who are required to file SEIs but are not subject to the City's Ethics Ordinance. These 750 classified employees are required to file SEIs based on State law and are subject to the California Political Reform Act with enforcement by the Fair Political Practices Commission.

I believe that all employees classified or unclassified regulated by the Political Reform Act should also be regulated by the City of San Diego Ethics Ordinance not only for their own benefit, but also the benefit of good government. It is well known that I was not a big supporter of the Ethics Commission when it was first created. During my time as Councilmember however, I have learned on more than one occasion their benefit from a training perspective as well as for regularly seeking advice. I further believe adding all Form 700 filers under the jurisdiction of the Ethics Commission will bring greater confidence in our local government process.

I respectfully recommend, as outlined in the Ethics Commission's response, that the issues of requiring training for classified employees regarding disclosure requirements

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and the potential to include unclassified employees within the Ethics Ordinance, be discussed with the appropriate labor unions during the spring 2008 meet and confer process.

If you have any questions please feel free to contact my office. Thank you.

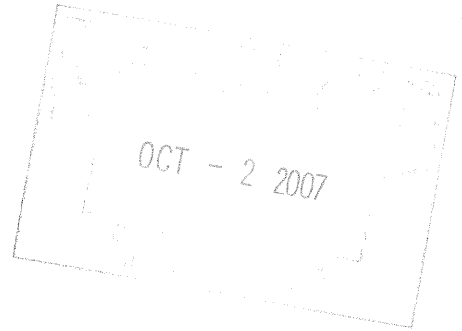
Attachments

JM/af

cc: Honorable City Councilmembers  
Gil Cabrera, Chair, San Diego Ethics Commission  
Stacey Fulhorst, Executive Director, San Diego Ethics Commission  
City Clerk Liz Maland  
City Attorney Michael Aguirre  
Judie Italiano, Municipal Employees Association  
Joan Raymond, Local 127

**CITY OF SAN DIEGO  
ETHICS COMMISSION**

**M E M O R A N D U M**



**DATE:** October 2, 2007

**TO:** Councilmember Jim Madaffer

**FROM:** Guillermo Cabrera, Chair, San Diego Ethics Commission  
Stacey Fulhorst, Executive Director, San Diego Ethics Commission

**SUBJECT:** Classified Employees

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The Ethics Commission recently considered your recommendation that the Commission expand its jurisdiction to include classified employees who are required to file Statements of Economic Interests [SEIs]. The Commissioners considered the following relevant information:

- At present, there are approximately 1,100 City Officials subject to the City's Ethics Ordinance. These officials include elected officials and their staffs, unclassified City employees, City agency employees who file SEIs, members of boards and commissions who file SEIs, members of Project Area Committees, and consultants who file SEIs.
- There are approximately 750 classified employees who are required to file SEIs. (Note that the vast majority of these 750 classified employees are members of the Municipal Employees Association [MEA].) Although these employees file SEIs, they are not subject to the Ethics Ordinance and are therefore not within the jurisdiction of the Ethics Commission for purposes of education or enforcement. Instead, such classified employees are subject to the provisions of the California Political Reform Act [PRA], which is similar to the City's Ethics Ordinance in terms of the disclosure of economic interests, gift restrictions, conflicts of interest, etc. Violations of the PRA may be reported to the state's Fair Political Practices Commission for enforcement purposes.

During its deliberations, the Commission received input from Scott Chadwick, the City's Labor Relations Manager, as well as representatives from MEA. These individuals all agreed that this issue would be subject to the "meet and confer" process between the City and its labor unions. Mr. Chadwick and representatives from the Mayor's Office have also advised the Commission that the ordinance implementing Proposition C (contracting out City services, approved by the voters on November 7, 2006) prohibits the imposition of post-employment restrictions on some classified employees. Finally, Nancy Roberts, Supervising Labor Relations Representative with MEA, suggested that the Commission's jurisdiction be expanded solely for education purposes. In other words, the Commission would provide advice to classified employees regarding the

requirements associated with completing and filing SEIs, but enforcement would still be handled by the FPPC.

After considering the foregoing, the Commission agreed to recommend the expansion of its jurisdiction to include classified employees who file SEIs, subject to the following conditions:

- (1) Classified employees would be included within the Commission's jurisdiction for both education and enforcement purposes. The Commission does not believe it is good public policy to dedicate Commission resources to education without also ensuring the public that there will be Commission oversight and investigations of apparent violations. In fact, the Commission would recommend against implementing any changes to its jurisdiction unless the "meet and confer" process yields an agreement in favor of both education and enforcement.
- (2) Classified employees would be subject to all of the provisions in the City's Ethics Ordinance with the exception of the post-employment restrictions (because of the information received from the Labor Relations Manager and the Mayor's Office, as discussed above). Because the vast majority of the provisions in the Ethics Ordinance are nearly identical to those in the state's PRA, classified employees who file SEIs are already required to adhere to similar state laws concerning gifts and conflicts of interest. There are only a few sections in the City's Ethics Ordinance that do not mirror the PRA, and these include: engaging in incompatible activities for compensation, using your City position or City resources for private gain, and soliciting campaign contributions from City employees. The Commission believes that classified employees who file SEIs should be subject to these additional provisions for both public policy and practical purposes.
- (3) Classified employees would not be entitled to avail themselves of the various civil service remedies in connection with an Ethics Commission investigation or enforcement action. In other words, the Commission and its staff should not be subject to grievance procedures, fact findings, Skelly hearings, civil service hearings, or appeals. To do so would substantially interfere with the Commission's investigative and enforcement procedures, and would consume the Commission's limited resources. Moreover, the Commission's enforcement remedies are primarily limited to the imposition of administrative fines. Because the Commission's remedies do not include personnel actions such as demotions, suspensions, or terminations, civil service remedies are inappropriate. Anyone subject to an Ethics Commission investigation would, of course, be entitled to be represented by the person of their choosing, including a labor union representative.
- (4) If the Commission's jurisdiction is expanded to include classified employees who file SEIs, the Commission may need to hire additional personnel, including another staffer for education purposes and an additional investigator. The Commission would make every effort to accommodate the additional responsibilities with its existing

Councilmember Jim Madaffer

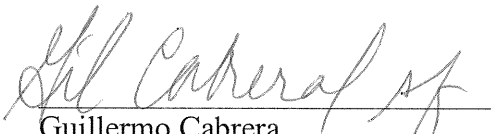
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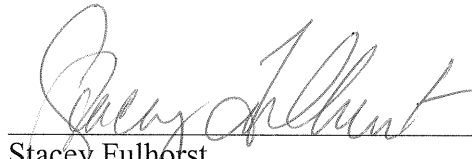
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staff, but could be compelled to return to the City Council with a request for additional funding if necessitated by the additional workload.

Depending upon the results of the "meet and confer" process in the Spring of 2008, the Commission may need to propose language to amend the Municipal Code to reflect the expansion of its jurisdiction. Accordingly, if you recommend to the Mayor's Office that this issue be included in the City's upcoming labor negotiations, please ask the Mayor's staff to keep the Commission staff apprised of the developments concerning this issue.

If you have any questions, please contact me at your convenience.

  
Guillermo Cabrera  
Chair, San Diego Ethics Commission

  
Stacey Fulhorst  
Executive Director, San Diego Ethics Commission

cc: Honorable Mayor Jerry Sanders  
City Councilmembers  
Michael Aguirre, City Attorney